



State of California—Health and Human Services Agency
Department of Health Care Services



GAVIN NEWSOM
GOVERNOR

September 28, 2021

James G. Scott, Director
Division of Program Operations
Medicaid and CHIP Operations Group
Centers for Medicare & Medicaid Services
601 E. 12th St, Room 355
Kansas City, MO 64106-2898

STATE PLAN AMENDMENT 21-0060: CHANGE TO REIMBURSEMENT
METHODOLOGY FOR INTERMEDIATE CARE FACILITIES FOR THE
DEVELOPMENTALLY DISABLED (ICF/DD), ICF/DD-HABILITATIVE (ICF/DD-H), AND
ICF/DD-NURSING (ICF/DD-N), EFFECTIVE AUGUST 1, 2021

Dear Mr. Scott:

The Department of Health Care Services (DHCS) is submitting State Plan Amendment (SPA) 21-0060 for your review and approval. This SPA amends the current reimbursement methodology for Intermediate Care Facilities for the Developmentally Disabled (ICF/DD), ICF/DD-Habilitative (ICF/DD-H), and ICF/DD-Nursing (ICF/DD-N), effective August 1, 2021.

Assembly Bill (AB) 133 (Chapter 143, Statutes of 2021) amended Section 14105.075 of the Welfare and Institutions Code, removing the application of the reductions and limitations to reimbursement rates imposed by Welfare and Institutions Code sections 14105.191 and 14105.192. In accordance with AB 133, SPA 21-0060 will change the reimbursement methodology for ICF/DD, ICF/DD-H, and ICF/DD-N facilities, effective August 1, 2021. The reimbursement rates for these facilities will be established at the 65th percentile of the group's projected costs, including the projected cost of complying with new state or federal mandates and the quality assurance fee. The reimbursement rate will be inclusive of the supplemental payment per diem amount received pursuant to pages 35-35a of Attachment 4.19-D.

Additionally, for dates of service on or after August 1, 2021, through July 31, 2022, the reimbursement rate established for ICF/DD, ICF/DD-H, and ICF/DD-N facilities will be the greater of that facility's new rate established as described above or the facility's rate in effect on July 31, 2021 plus the supplemental payment received pursuant to pages 35-35a of Attachment 4.19-D.

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A Notice of Public Interest for SPA 21-0060 was published on July 29, 2021, on the DHCS webpage. On August 6, 2021, CMS informed DHCS that a tribal notice is not required for this SPA.

If you have any questions regarding this SPA, please contact Connie Florez, Chief of the Fee-For-Service Rates Development Division, at Connie.Florez@dhcs.ca.gov.

Sincerely,



Jacey Cooper
State Medicaid Director
Chief Deputy Director
Health Care Financing

Enclosures

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**TRANSMITTAL AND NOTICE OF APPROVAL OF
STATE PLAN MATERIAL
FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES**

1. TRANSMITTAL NUMBER

2. STATE

3. PROGRAM IDENTIFICATION:

TO: REGIONAL ADMINISTRATOR
CENTERS FOR MEDICARE & MEDICAID SERVICES
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE

5. TYPE OF PLAN MATERIAL (*Check One*)

NEW STATE PLAN

AMENDMENT TO BE CONSIDERED AS NEW PLAN

AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (*Separate transmittal for each amendment*)

6. FEDERAL STATUTE/REGULATION CITATION

7. FEDERAL BUDGET IMPACT

a. FFY _____ \$ _____

b. FFY _____ \$ _____

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION
OR ATTACHMENT (*If Applicable*)

10. SUBJECT OF AMENDMENT

11. GOVERNOR'S REVIEW (*Check One*)

GOVERNOR'S OFFICE REPORTED NO COMMENT
COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

OTHER, AS SPECIFIED

12. SIGNATURE OF STATE AGENCY OFFICIAL

16. RETURN TO

13. TYPED NAME

14. TITLE

15. DATE SUBMITTED
September 28, 2021

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED

18. DATE APPROVED

PLAN APPROVED - ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL

20. SIGNATURE OF REGIONAL OFFICIAL

21. TYPED NAME

22. TITLE

23. REMARKS

5. Pediatric Subacute Care Units that are, or are parts of, Distinct Parts of General Acute Hospitals (DP/NF Pediatric Subacute)

Distinct Part Pediatric Subacute		
Period	Reduction	With Respect to:
07/01/08 - 07/31/08	10%	Prospective rate for 2007/08
08/01/08 - 02/28/09	10%	Prospective rate for 2008/09
03/01/09 - 04/05/09	5%	Prospective rate for 2008/09
08/01/09 - 02/23/10	Set at Prospective rate for 2008/09	

TN. No. 21-0060
Supersedes
TN. No. 08-
009D

Approval Date _____

Effective Date _____

9. Rural Swing Bed

Rural Swing Bed		
Period	Reduction	With Respect to:
07/01/08 - 07/31/08	10%	Prospective rate for 2007/08
08/01/08 - 10/31/08	10%	Prospective rate for 2008/09
08/01/09 - 02/23/10	Set at Prospective rate for 2008/09	
03/01/11 - Present	Set at Prospective rate for 2008/09	

- L. The payment reductions in boxes (1) through (9) will be monitored in accordance with the monitoring plan at Attachment 4.19-F, entitled "Monitoring Access to Medi-Cal Covered Healthcare Services".

- M.1. Notwithstanding III.A, IV.A.1, IV.A.2, IV.M.12.a. and IV.M.12.b. of this Attachment, (at pages 9, 10, and 15.4c.3, respectively), beginning with the 2016-17 rate year and through the 2021-22 rate year, DHCS will not audit ICF/DDs, ICF/DD-H and ICF/DD-N facility cost reports for purposes of setting a facility-specific reimbursement rate in accordance with this Attachment. Facilities may be audited as necessary to ensure program integrity.

Effective August 1, 2021, reimbursement rates for Intermediate Care Facilities for the Developmentally Disabled (ICF/DD), ICF/DD-Habilitative (ICF/DD-H), and ICF/DD-Nursing (ICF/DD- N) will be established at the 65th percentile calculated for the facility's respective peer group (licensed facility type and bedsize category), including the projected cost of complying with new state or federal mandates. For fiscal years when the facility receives the supplemental payment described in pages 35 – 35a of this Attachment, the supplemental payment amount will be accounted for and included in the calculation of the reimbursement rate, and, notwithstanding B.3. on page 35, will not be paid in addition to the reimbursement rate described in this paragraph.

Effective for dates of service on or after August 1, 2021, through July 31, 2022, the reimbursement rate for ICF/DDs, ICF/DD-Hs, and ICF/DD-Ns shall be the greater of the: (1) reimbursement rate established pursuant to this paragraph; or (2) the reimbursement rate as approved in pages 90g – 90l of Section 7.4 of this State Plan (COVID-19 Medicaid Disaster Relief), plus any supplemental payment received as described in pages 35 – 35a of this Attachment, in effect for the facility on July 31, 2021.

Notwithstanding III.A, IV.A.1, IV.A.2, IV.M.12.a., and IV.M.12.b. of this Attachment, (at pages 9, 10, and 15.4c.3, respectively), beginning with the 2015-16 rate year, and each rate year thereafter, DHCS will utilize reported or audited costs with fiscal periods ending in the calendar year that is two years prior to the beginning of the rate year (August 1) to establish each facility's projected rates (i.e., facility's cost report ending on or within January 1, 2013, through December 31, 2013 will be used to calculate the rates for the period from August 1, 2015, through July 31, 2016).

The reimbursement rates resulting from the application of this Paragraph M.1 are effective August 1, 2021, and will be published on the DHCS website, at the following link: http://www.dhcs.ca.gov/services/medical/Pages/LTCRU.ICF_DD.aspx.

2. Each ICF/DD, ICF/DD-H, and ICF/DD-N will retain its supporting financial and statistical records for a period of not less than three years following the date of submission of its cost report and will make such records available upon request to authorized state or federal representatives, as described in Welfare and Institutions Code, section 14124.1.

3. The reimbursement rate methodology for ICF/DDs, ICF/DD-Hs, and ICF/DD-Ns may include more or less than twelve months and/or more than one cost report, as long as the fiscal periods all end within the timeframe specified for rate-setting.
4. DHCS will exclude any cost report or supplemental schedule or portion thereof that it deems inaccurate, incomplete, or unrepresentative. If any cost report or supplemental schedule is excluded, the rate set forth in paragraph M.10 will apply.
5. An ICF/DD, ICF/DD-H, or ICF/DD-N that no longer participates in the Medi-Cal Program will be excluded from the rate-setting process.

6. Overpayments to any ICF/DD, ICF/DD-H, and ICF/DD-N will be recovered in a manner consistent with applicable recovery procedures and requirements of state and federal laws and regulations. Overpayment recovery regulations are described in the California Code of Regulations, Title 22, Section 51047, as in effect on August 1, 2012.
7. Providers have the right to appeal audit or examination findings that result in an adjustment to Medi-Cal reimbursement rates. Specific appeal procedures are contained in Welfare and Institutions Code, Section 14171, as in effect on August 1, 2012, and in Division 3, Subdivision 1, Chapter 3, Article 1.5 (Provider Audit Appeals) of the California Code of Regulations, Title 22, Sections 51016 through 51048, as in effect on August 1, 2012.
8. A new ICF/DD, ICF/DD-H, or ICF/DD-N with no cost history in a newly constructed facility, in a location not previously licensed as an ICF/DD, ICF/DD-H, or ICF/DD-N, or an existing facility newly certified to participate in the Medi-Cal Program will receive an interim per diem rate equal to the 65th percentile rate for the applicable peer group (licensed facility type and bedsize category). The facility will continue to receive the interim rate until the owner or operator has submitted six or more months of Medi-Cal cost data and DHCS has audited these costs. Once an audit report reflecting at least six months of cost data becomes available, the interim rate will be retroactively adjusted to the appropriate final rate based on the current methodology.
9. In instances where an existing facility which has participated in the Medi-Cal Program changes ownership or operators, DHCS will reimburse the facility an interim per diem rate at the 65th percentile of the applicable peer group (licensed facility type and bedsize category). The facility will continue to receive the 65th percentile at the respective peer group until the new owner or operator has submitted six or more months of Medi-Cal cost and/or supplemental data and DHCS has audited these costs. Once an audit report reflecting at least six months of cost data becomes available, the interim rate will be retroactively adjusted to the appropriate final rate based on the current methodology.
10. If any ICF/DD, ICF/DD-H, or ICF/DD-N does not complete and submit a cost report for the applicable period that will be used to establish the rates for the upcoming rate year, that provider will receive a rate at the 65th percentile established for the applicable peer group (licensed facility type and bedsize category), reduced by 10 percent. Once a provider submits a cost report for the applicable period that is used in rate setting for the rate year, DHCS will calculate an individual rate based on the current methodology, and apply that rate retroactively for the rate year.

- 12.a. Notwithstanding Sections III.A, IV.A.1 and IV.A.2 of this Attachment (at pages 9 and 10), audited costs will be used to determine rates for those facilities that are audited, and the ICF/DD-H and ICF/DD-N audit adjustment factors (as described in Section IV.A) will be used for facilities that are not audited.
- b. Notwithstanding Sections III.A, IV.A.1, IV.A.2, and IV.M.12.(a) of this Attachment (at pages 9, 10, and 15.4c.3), facility-specific audited costs will be used to calculate the rates for facilities that are audited.

DHCS will use reported costs to calculate the rates for those facilities that are not audited. Beginning with the 2013-14 rate-year, the ICF/DD, ICF/DD-H, and ICF/DD-N audit adjustment factors (as described in Section IV.A) will not be applied.

DHCS will audit one hundred percent of ICF/DD facilities. ICF/DD-H and ICF/DD-N facilities to be audited will be selected on the basis of reported and projected costs, and will include those facilities which would be adversely impacted under the rate methodology detailed in Section IV.M of this Attachment, if the audit adjustment factors (as described in Section IV.A), are 10% or less.

ICF/DD-H and ICF/DD-N facilities will not be selected for an audit if their reported and projected costs are low or high enough that the minimum or maximum rate would still be assigned with an audit adjustment factor up to and including 10%. This audit range takes into consideration the 5% increase per paragraph M.1 of this Section.

Reserved for Future Use.

TN 21-0060
Supersedes
TN 13-019

Approval Date _____

Effective Date _____

Reserved for Future Use.

TN 21-0060
Supersedes
TN 13-019

Approval Date _____

Effective Date _____